

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 064

June 27, 1958

PROPOSED ASSESSMENTS: REVISION AFTER LIMITATION PERIOD

Syllabus:

Revision of notices of proposed assessment after the statute of limitations has expired is discussed.

Advice is requested in respect to the authority for adjusting Notices of Proposed Assessment by any one or more of the adjustments enumerated below in situations where the statute of limitations has expired. In no instance is the total tax proposed to be assessed increased as the net result of these adjustments:

- (a) Introducing new items which increase the income.
- (b) Increase items enumerated in the Notice of Proposed Assessment in a manner that would increase the income.
- (c) Decrease items enumerated in the Notice of Proposed Assessment in a manner that would increase the net income.
- (d) Assess liability in accordance with sections 13(c) (now section 23222), 13(d) (now sections 23223 and 23224), 13(h) (now sections 23253 and 23253a through c), 13(l) (now section 23281), and 13(m) (now section 23282), when said liability was not asserted in the Notice of Proposed Assessment.

In addition, advice is requested in respect to the authority, if any, for increasing the amount of the total tax proposed to be assessed in a Notice of Proposed Assessment where the statute of limitations has expired and only the items enumerated in said Notice of Proposed Assessment are adjusted.

In answer to these questions, it may be stated in general:

- (a) Items should not be introduced.
- (b) & (c) Adjustments in income items may be made if they are contemplated within or relate to the grounds in the original notice of proposed assessment. Income items should not be increased nor deduction items decreased.
- (d) Section 13 assessments are not deficiencies within the meaning of Section 25.

No authority has been found which would permit an increase in the originally proposed additional tax after the statute of limitations has expired.

DRAFT